



State of Louisiana
Community Development Block Grant
Mitigation Funds (CDBG-MIT)

COMPREHENSIVE
PROGRAM POLICIES AND PROCEDURES

Programs featured in the State's Master CDBG-MIT [Action Plan](#)¹ developed in response to Federal Register Notice Docket No. FR-6109-N-02

PROGRAM ADMINISTERED BY:

Office of Community Development
Division of Administration
State of Louisiana

www.watershed.la.gov

¹ This program may be adjusted or revised based on HUD requirements or later amendments to the Action Plan.



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I. VERSION HISTORY



II. DEFINITIONS AND ACRONYMS

Action Plan or AP: After HUD publishes the Federal Register Notice (FRN) for a congressional appropriation; the grantee (eligible government) must develop and submit an Action Plan describing the needs, strategies and projected uses of the CDBG-MIT funds. Louisiana's [Action Plan](#) for CDBG-MIT funding has been approved.

Acquisition: Acquisition of property appropriate for the eligible activities listed in 42 U.S.C. 5305(a)(1), including, but not limited to provision of flood risk reduction public works projects or improvements.

Buyout: Strategic acquisition of properties in a floodway floodplain, or disaster risk reduction area that is at risk of flooding to reduce future flood risk.

CDBG-DR: Community Development Block Grant-Disaster Recovery funds. Assistance from the U.S. Department of Housing and Urban Development (HUD) to help the state recover from presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations.

CDBG-MIT: Community Development Block Grant-Mitigation assistance allocated by HUD to eligible disaster recovery entities via congressional appropriations. HUD provided CDBG-MIT funds to grantees impacted by qualifying disasters in 2015, 2016, 2017. Grantees are empowered to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses, while at the same time transform state and local planning².

Cross-Cutting Regulations: Regulations outside of CDBG-MIT regulations that apply to CDBG-MIT programs. These include regulations pertaining to financial management, procurement, environmental, labor, acquisition, relocation, fair housing and non-discrimination.

Current Fair Market Value: Value of property, as determined by an appraisal conducted by an appraiser licensed in the state of Louisiana and accepted by the grantee.

Davis Bacon and Related Acts or DBRA: Federal law requiring payment of local prevailing wages as determined by the Department of Labor on public works projects. It applies to contractors and subcontractors performing work funded in whole or in part with CDBG funds for the construction, alteration or repair of any non-residential construction in excess of \$2,000 and residential construction of eight units or more.

Duplication of Benefits or DOB: A duplication of benefit is the receipt of financial assistance from multiple sources for the same purpose. The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern or other entity from receiving financial assistance from CDBG-DR and CDBG-MIT funding with respect to any part of the loss resulting from a major disaster as to which he/she has already received or thereafter receives financial assistance under any other program or from insurance or any other sources. It is an amount determined by the program that may result in the reduction of an award value.

Environmental Review Record or ERR: The document resulting from required environmental review, which includes a description of activities, evaluation of environmental impact, documentation of compliance with applicable environmental regulations and an environmental determination.

² FR-6109-N-02. Page 3



Federal Register or FR: The Federal Register is the official journal of the federal government of the United States that contains government agency rules, proposed rules and public notices. It is published daily, except on federal holidays. The final rules published in the Federal Register are ultimately reorganized by topic or subject matter and codified in the Code of Federal Regulations, which is updated annually.

Federal Register Notice or FRN: For each congressional appropriation, HUD publishes a Federal Register Notice that outlines the rules and regulations for the CDBG disaster and mitigation funding. Any use of FRN in this document will refer specifically to FR-6109-N-02, unless otherwise noted.

Federal Emergency Management Agency or FEMA: The Federal Emergency Management Agency's mission is to support the citizens and first responders to build, sustain, and improve capability to prepare for, protect against, respond to, recover from, and mitigate all hazards. FEMA is under the U.S. Department of Homeland Security.

FEMA Public Assistance or PA: Federal Emergency Management Agency Public Assistance, which the President can make available to local, state and tribal governments, and certain types of private nonprofit organizations to remove debris, provides emergency protective measures, and restores equipment, buildings and other infrastructure damaged by the disaster.

Floodplain: Any area of land within a watershed that is susceptible to inundation by floodwaters from any source.

Floodplain management: A decision-making process that aims to achieve the wise use of the nation's floodplains. It encompasses the choices made by owners of homes and businesses in the floodplain, decisions made by officials at all levels of government, plans made by land developers and contractors, and the judgment of the general public regarding future decisions to be made with regard to land use. 44CFR 59.1 defines *flood plain management* as "the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations."

Levee: An earthen embankment, floodwall, or structure along a watercourse whose purpose is flood risk reduction or water conveyance³.

Louisiana Watershed Initiative or LWI: Gov. John Bel Edwards established the Council on Watershed Management, which serves as the coordinated, interagency structure at the state level for watershed-based flood risk reduction. In August 2018, the Council launched the LWI to serve as the programmatic arm under which all related efforts operate.

Low to Moderate Income or LMI: A household is considered to be of low or moderate income if the household income (including income derived from assets) is at or below 80 percent of an area's median income. All income is based on the Area Median Income limits set annually by HUD for each parish or metropolitan statistical area.

Major Disaster Declaration: The President can declare a Major Disaster Declaration for any event that the President believes has caused damage of such severity that it is beyond the combined capabilities of state and local governments to respond. Louisiana's major disaster declarations for the March and August flooding events include:

³ Definition from the US Army Corps of Engineers



- Severe Flooding (Disaster 4277) declared on August 14, 2016
- Severe Flooding (Disaster 4263) declared on March 13, 2016

Mitigation Activities: Those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

Notice of Funding Availability or NOFA: A Notice of Funding Availability is a notice published describing the type of funding available on a competitive basis and provides a contact where an application may be submitted, typically defining a number of days from the date of NOFA publication. Selection will then be made based upon specific factors and criteria identified within the NOFA.

Public Entity: A Public Entity means a state agency, board or commission, political subdivision, or a federally recognized Indian tribe (“tribe”). For a tribe to apply for or receive a grant, it must agree to a waiver of its sovereign immunity and submit to the jurisdiction of the nineteenth judicial district court for the Parish of East Baton Rouge, State of Louisiana with regard to any legal action associated with the application or grant, or for enforcement of security rights on real estate, if any, the judicial district court for the parish in which such property is located.

Provisional watershed regions: The LWI has established provisional watershed regions throughout the state. These regions aggregate HUC8-level watersheds into eight watershed regions for LWI management purposes. See Figure 2 for more detail.

Section 3: A provision of the Housing and Urban Development (HUD) Act of 1968 that requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

Section 504: A provision of the Rehabilitation Act of 1973, which provides that no qualified individual with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

U.S. Department of Housing and Urban Development or HUD: HUD is the agency that administers the Community Development Block Grant-Disaster Recovery and Mitigation funds made available to Louisiana from congressional appropriations.

Watershed: A watershed is a geographic area within the boundary of a drainage divide. The USGS defines a watershed as follows: “A watershed is an area of land that drains all the streams and rainfall to a common outlet such as the outflow of a reservoir, mouth of a bay, or any point along a stream channel”.



III. LWI AND CDBG-MIT

A. PURPOSE

This technical document addresses comprehensive policies and procedures to ensure use of CDBG-MIT funds are both compliant with federal requirements and—to the maximum extent practical—help to support the long-term vision and mission of the LWI.

The Office of Community Development is the grantee and administrator of CDBG-MIT funds for the state of Louisiana. In the event of a conflict between policies and procedures contained herein and the OCD's CDBG Grantee Administrative Manual located at: <http://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>, the administrative manual will take precedence in the administration of awarded grants unless specifically noted otherwise in these policies or as required within Federal Register Notice Docket No. FR-6109-N-02, as may be amended or waived by HUD.

B. BACKGROUND

B.1 Louisiana Watershed Initiative or LWI

The **LWI** is the state's effort to establish a sustainable, long-term framework for watershed-based collaboration, science-based decision making and best practices in floodplain management that will more comprehensively reduce flood risk and improve the quality of life for all Louisianians. The LWI combines a comprehensive understanding of the state's hydrologic processes with policy-based solutions and engagement across all sectors of government to work toward addressing flood risk by aligning efforts within natural watersheds. The effort is managed by the Council on Watershed Management (Council)—currently composed of the Office of Community Development (OCD), Coastal Protection and Restoration Authority (CPRA), Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), Department of Transportation and Development (DOTD), and the Department of Wildlife and Fisheries (DWF)—and created by Governor John Bel Edwards via Executive Order JBE18-16.

The LWI's mission is to “reduce flood risk, improve floodplain management throughout the state and maximize the natural and beneficial functions of floodplains.” The Council actively implements this mission through a holistic approach that focuses on:

- Scientific tools and approaches
- Transparent and objective decision-making
- Maximizing natural functions of the floodplains
- Regional water management

B.2 Mitigation Activities

HUD announced a first-time allocation of nearly \$16 billion in **Community Development Block Grant-Mitigation (CDBG-MIT)** funds, as directed by the 2018 Congressional Supplemental Appropriation (Pub. L 115-123, February 9, 2018) to be used for mitigation activities for qualifying disasters in 2015, 2016 and 2017. Mitigation activities include activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.



While HUD acknowledges that it is impossible to eliminate all risks, it will distribute CDBG-MIT funds with the intention to enable grantees to mitigate against disaster risks, while at the same time allowing grantees the opportunity to transform state and local planning. All \$1,213,917,000 of CDBG-MIT funds allocated to the State of Louisiana must be spent for the specific purpose of **mitigation activities**, in accordance with the requirements and procedures specified in the FRN for this allocation.

B.3 Consistency with the State’s CDBG-MIT Action Plan (or AP)

As required by the FRN, the State of Louisiana, through the Office of Community Development (OCD), coordinated the development, review and HUD approval of the state’s **CDBG-MIT Action Plan**. The AP incorporates extensive public outreach, uses the latest data and science available, and identifies and analyzes all significant current and future disaster risks. It highlights and elevates the state’s most prevalent unmet mitigation need: *Whether by flash flooding, inland rivers, stormwater or coastal storm surge, Louisiana is facing increased risk—in both magnitude and frequency—of flood events.*

To address the unmet mitigation needs associated with Louisiana’s increased flood risk, the AP provides a summary of the proposed programs and activities for spending CDBG-MIT funds. This includes identifying resources, aligning and leveraging across other federally funded programs and private sources, maximizing efficiencies and addressing the State of Louisiana’s priority mitigation needs and goals outlined in existing and planned state plans, programs and activities.

While the LWI’s long-term resilience objectives are catalyzed by CDBG-MIT funds and implementation of the AP, state activities associated with the LWI program began before CDBG-MIT funds were identified and made available and aim to continue long after CDBG-MIT grant funding deadlines expire.

C. PROGRAMS IN THIS DOCUMENT

This following list of programs’ policies and procedures are addressed or planned as part of this comprehensive policy and procedures document.

Table 2. CDBG-MIT Action Plan Programs or Program Areas

Program or Program Area	Location
State Projects and Programs	Section V.A.
State Infrastructure: Flood Mitigation Projects <i>Regional Retention/Detention Projects and Natural Flood Management, Critical Facilities and Infrastructure</i>	Section V.A.1
State Housing: Nonstructural Mitigation	Section V.A.2 (Reserved*)
State Economic Development and Resilience: Flood-Ready Jobs	Section V.A.3 (Reserved*)

**Note: Programs marked as “reserved” indicate information will be added in a future version.*



D. ELIGIBILITY

D.1 Geographic Eligibility

Under the guidelines of FRN⁴, HUD requires that all CDBG-MIT funds be spent on mitigation activities and at least 50 percent of all CDBG-MIT funds be spent to support mitigation activities that address identified risks within or benefitting areas identified as Most Impacted and Distressed (MID) as a result of the 2016 floods: DR-4263 and DR-4277. HUD identified 10 parishes as MIDs in the FRN.

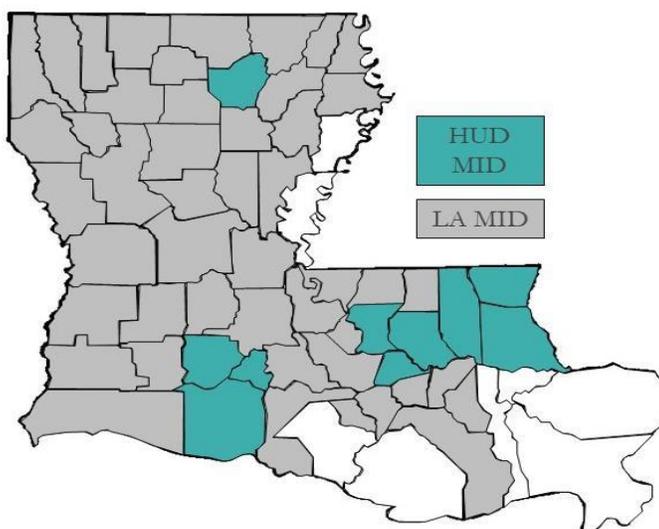
HUD MID parishes: East Baton Rouge, Livingston, Ascension, Tangipahoa, Ouachita, Lafayette, Vermilion, Acadia, Washington and St. Tammany parishes

HUD allows the state to use quantifiable and verifiable data to designate additional MID areas where it can use the remaining 50 percent of the CDBG-MIT funds for mitigation activities that address identified risks resulting from the identified major disasters. The state identified an additional 46 parishes as LA-identified MIDs. All 46 parishes received major federal disaster declarations (Individual Assistance or Public Assistance) as a result of either the March or August 2016 floods (See **Figure 1**).

LA MID parishes: Allen, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, DeSoto, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson Davis, LaSalle, Lafourche, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, Union, Vernon, Webster, West Baton Rouge, West Carroll, West Feliciana and Winn parishes

Any projects for eligible mitigation activities outside of the HUD- or LA-identified MID areas may be submitted for consideration but must demonstrate how the expenditure of CDBG-MIT funds in the area measurably benefits or mitigates risks within a HUD or LA-identified MID area (e.g., upstream water retention projects to reduce downstream flooding in the MID areas).

Figure 1. Parish MIDs Impacted by 2016 Flood



⁴ FR-6109-N-02, Section IIC; Pages 14-15



D.2 Eligible Activities

Each program's eligible activities are included within Section V: Action Plan Programs and Program Areas.

D.3 Ineligible Activities

- Per the FRN, HUD prohibits the use of CDBG-MIT funds to enlarge a dam or levee beyond the original footprint of the structure that existed before the disaster event. Special requirements exist for the use of CDBG-MIT funds for levees and dams⁵. **OCD approval must be obtained for submittal of any project involving the proposed construction or demolition of a dam, levee or other flood control structure.**
- CDBG-MIT funds made available in this program cannot be used to assist privately owned utilities.
- CDBG-MIT funds cannot be used for ongoing maintenance or deferred maintenance projects.
- CDBG-MIT funds cannot be used for programs and projects to provide emergency response services⁶. However, CDBG-MIT funds may be used for mitigation activities to enhance the resilience of facilities used to provide emergency response services, provided that such assistance is not used for buildings for the general conduct of government as defined at 24 CFR 570.3.
- CDBG-MIT funds cannot be used to support any federal, state or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use⁷.
- CDBG-MIT funds cannot be used for reimbursement for mitigation activities undertaken before approval of a grant agreement between HUD and the State of Louisiana.

D.4 Project Delivery Costs

Project delivery costs are expenses incurred by grantees while implementing and carrying out eligible CDBG activities. Project delivery is capped at 15% of the overall project budget within CDBG-MIT programs. Examples of project delivery costs include costs to supplement a grantee's single audit, costs associated with environmental clearance, newspaper advertisements and grant management costs. OCD may pay for project delivery costs in excess of the caps specified herein only upon review of justification submitted by the grantee.

D.5 Grant Management Costs

Grant management costs are tied to specific grant requirements and should be estimated according to the total grant request for the application and included in the application budget. The maximum allowable grant management cost per project shall be less than or equal to the caps as outlined in the table below. The grant management cap is inclusive of all grant management services including but not limited to administrative oversight, program reporting, scheduling, document management, review, technical assistance and consultation as required accomplish the objectives of the project or program through closeout phases as described in the current CDBG Grantee Administrative Manual. The applicant must demonstrate the reasonableness of the costs. Justification based solely on the fact that the fees are within the amount allowed by OCD is not adequate.

⁵ Section V.C.2, Page 113-114 of the FRN: FR-6109-N-02

⁶ Emergency Response Services are defined in Section V.C.5, page 115 of FR-6109-N-02

⁷ Must be in accordance with the public use definition in Section V.D.7, page 117 of FR-6109-N-02.



Total CDBG-MIT Project Award	Grant Management Cap Amount
\$500,000 - \$749,999.99	\$50,000.00
\$750,000 - \$1,499,999.99	\$60,000.00
\$1.5 million - \$2,499,999.00	\$80,000.00
\$2.5 million - \$5,999,999.99	\$100,000.00
\$6 million - \$9,999,999.99	\$120,000.00
\$10 million - \$19,999,999.99	\$140,000.00
\$20 million - \$30 million*	\$160,000.00

**For total project award costs exceeding \$30 million, the applicant is required to submit a request to OCD for grant management fee approval.*

Applicants may choose to use their own staff to conduct grant management activities, procure a third-party grant administrator or a combination of the two.

D.6 Professional Design and Construction Management Costs

Professional design costs for Basic Services or Additional Services may be eligible for reimbursement up to the established fee schedule established by State of Louisiana Office of Facility Planning and Control included and included herein within **Appendix A**. This fee schedule is updated annually and updates will be accounted for and applicable to projects and programs receiving CDBG-MIT funds. Grantees must account for all design and management costs within professional design and management cost budgets and not categorize these expenses as project *delivery* costs. Architectural/ Engineering fees—including those provided under either a fixed price contract or cost reimbursement contract—must be cost reasonable and justifiable. Sole justification that the fees are within the amount allowed by OCD is not adequate, and design contracts priced based on a percentage of project cost are prohibited.

D.6.1 Basic Services

Basic Services under a contract for professional design services may include costs for design services and related costs determined by OCD to be included within Basic Services. Reimbursement for Basic Design Services costs cannot exceed 10% of the construction cost.

D.6.2 Additional Services

Additional Services as part of a professional design contract may include laboratory testing services, recordation fees, advertisement for bids, environmental assessments, hydrologic and hydraulic studies, traffic studies, wetlands permitting, surveys, geotechnical investigations, construction observation, builders risk insurance and similar costs determined by OCD to be allowable. OCD reimbursement for Additional Services cannot exceed 5% of the construction cost. OCD may pay Additional Services in excess of the 5% cap only upon review of justification submitted by the project architect or engineer.

E. NATIONAL OBJECTIVE

E.1 Minimum Requirement

Each project receiving CDBG-MIT funds must meet a national objective in accordance with the general



CDBG framework. **Per CDBG regulations, a project does not meet a national objective until it is complete.** Therefore, applicants must be aware of the national objective category and document compliance appropriately. For the purposes of the CDBG-MIT funded programs, eligible national objectives include Low to Moderate Income (LMI) or Urgent Need Mitigation (UNM). The Alternative Requirements in meeting these two national objectives, as prescribed by HUD, are further detailed in Sections 5.2 and 5.3 below.

To meet a national objective all CDBG-MIT activities must:

- (1) Demonstrate the ability to operate for the useful life of the project – have a plan for a funding for long-term operation.
- (2) Be consistent with other mitigation activities in MID areas⁸.

E.2 Low to Moderate Income (LMI)

In order to qualify as addressing the national objective of benefit to LMI persons on an area basis, an activity must benefit all residents in a particular area, where at least 51 percent of residents are LMI persons.

HUD alternatively allows certain activities, including buyouts (LMB) and housing activities (LMHI), to qualify as meeting an LMI national objective if the program or project meets one of the following requirements:

- **LMB:** An LMI national objective is met for buyouts when the seller is LMI and the total buyout (including relocation) is greater than the post-disaster Fair Market Value (FMV)
- **LMHI:** An LMHI national objective is met for housing incentives when an LMI household gets an incentive to move outside of the floodplain or to a lower-risk area; and providing or improving residential structures that, upon completion, will be occupied by an LMI household.

E.3 Urgent Need Mitigation (UNM)

HUD has waived and established an Alternative Requirement to the urgent need national objective, which is applicable to CDBG-MIT funds only, called the Urgent Need Mitigation (UNM) national objective. In order to meet a UNM, the project must document:

- Activity addresses current and future risks in the Mitigation Needs Assessment of MID areas; and,
- Activity will result in measurable and verifiable reductions in risk of loss of life and property from future disasters and yield community development benefits.

F. COORDINATION WITH LWI WATERSHED REGIONS

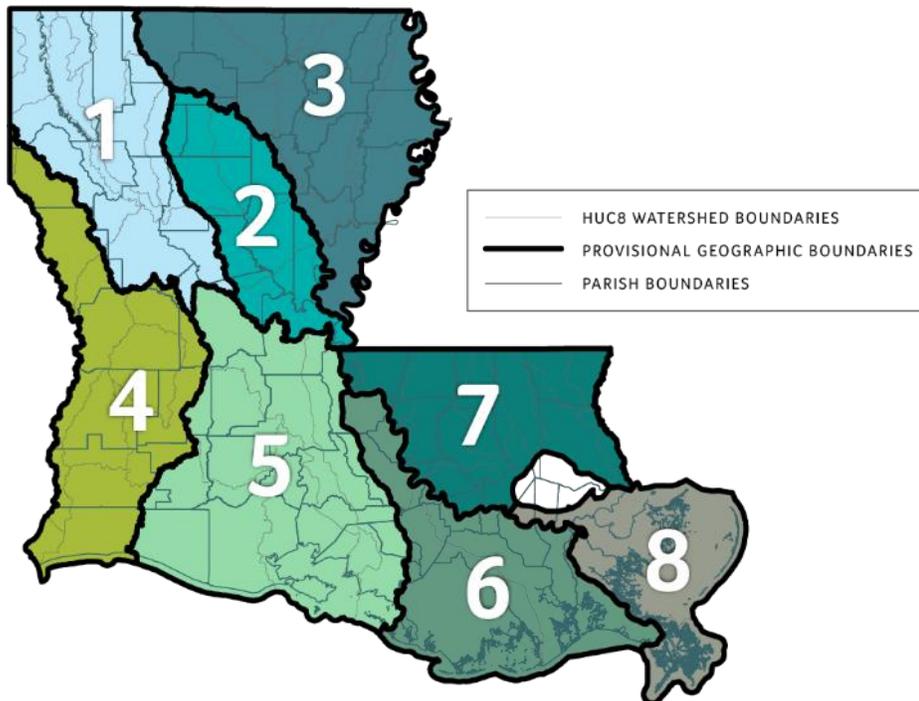
The OCD administers CDBG-DR funds to implement the statewide [Regional Capacity Building Grant Program](#) in support of LWI long-term, regional watershed management goals and objectives. The Council on Watershed Management approved eight provisional watershed regions in August 2019, establishing a framework for regional coordination of LWI activities. **Figure 2** illustrates the LWI provisional watershed regions. As applicable, watershed boundaries may be utilized to facilitate

⁸ Page 71 of the FRN: FR-6109-N-02



distribution of CDBG-MIT funds and long-term regional watershed management entities may be enabled to distribute or sub-grant CDBG-MIT funds within provisional watershed region boundaries. For more information on this program or to download GIS shapefiles for each region, click [here](https://watershed.la.gov) or visit watershed.la.gov.

Figure 2. LWI Provisional Watershed Regions



IV. DEVELOPMENT AND PROCEDURAL STANDARDS

A. ELEVATION AND CONSTRUCTION STANDARDS

The state requires high-quality, durable, sustainable, mold-resistant and energy-efficient construction methods for all activities funded with CDBG-MIT resources. All newly constructed buildings must meet all locally adopted building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the Louisiana State Uniform Building Code will apply. For further guidance, please see FR-6109-N-02.

B. REFERENCES TO CDBG-MIT AND FEDERAL CROSS-CUTTING REQUIREMENTS

HUD has approved basic waivers common to CDBG-DR that are allowed in CDBG-MIT, otherwise CDBG-DR rules preside. HUD has determined certain Alternative Requirements applicable only to the CDBG-MIT funds, as detailed in the authorizing FRN. The Alternative Requirements provide flexibility in program implementation while ensuring HUD CDBG requirements are met.



For a comprehensive understanding of the CDBG-DR and federal cross-cutting requirements, please refer to the Disaster Recovery CDBG Grantee Administrative Manual: <http://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>. While an applicant/project may be subject to other compliance requirements, the following have historically presented the most challenging and additional attention to detail may be required even prior to commencing:

- Labor Compliance Requirements (Davis Bacon and Related Acts)
- Uniform Relocation and Real Property Acquisition Act (URA)
- Section 3 Compliance
- Elevation Requirements
- Procurement Methods
- Environmental Review
- Duplication of Benefits
- Fair Housing

OCD will provide technical assistance to inform and assist with compliance. Failure to comply fully with the CDBG-MIT and federal cross-cutting requirements may result in project ineligibility and/or a recapture of funds.

B.1 Labor Standards

In general, Davis-Bacon and Related Acts (DBRA) requires payment of prevailing wages to laborers and mechanics on contracts, financed in whole or in part with CDBG-DR funds, that involve residential construction of 8 units or more, and non-residential construction work valued in excess of \$2,000. Also, all employees must be paid at least time and a half for any time they work more than forty hours per week. The Federal Labor Standards Provisions and the applicable federal wage decision(s) must be included in bid packages and contract documents as well as referenced in all bid advertisements. Prevailing wage rates are higher than regular wages in many rural areas and may affect the project budget.

Eligible applicants must comply with and will be responsible for ensuring compliance of all of its construction contracts with the following labor requirements and any other regulations issued to implement such requirements:

- 1) Section 110 of the Housing and Community Development Act of 1974, as amended and as set forth in 24 CFR§570.603.
- 2) Davis-Bacon Act, as amended (40 U.S.C. §3141 et seq.) as supplemented by Department of Labor regulations (29 CFR Parts 1, 3, 5, 6 and 7).
- 3) Contract Work Hours and Safety Standards Act (40 U.S.C. §3701 et seq.).
- 4) Federal Fair Labor Standards Act (29 U.S.C. §201 et seq.).
- 5) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. §874) as supplemented in Department of Labor regulations (29 CFR Part 3).

For further guidance, please see Section 7: Labor Regulations of the Disaster Recovery CDBG Grantee Administrative Manual, available at: <https://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>.



B.2 Uniform Relocation and Real Property Acquisition Act (URA)

In executing projects, grantees may need to acquire real property to complete specific activities. Prior to acquiring real property or attempting to undertake a relocation project, a determination must be made as to whether or not the requirements of the Uniform Relocation Assistance (URA) and Real Property Acquisition Act of 1970 (as amended in 1986) apply. The applicant must follow the procedures of the Uniform Relocation and Real Property Acquisition Act prior to the site acquisition. ANY acquisition of real property made by a grantee, even when financed with non-federal funds (i.e., general funds), can be subject to URA if the project's end result is a federally assisted project. Acquisition and relocation can be very time consuming. Please develop your program time schedule accordingly.

There are three major regulations that cover relocation and acquisition activities in CDBG programs:

- a) URA regulations, effective February 2005, implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended (49 CFR Part 24}
- b) (b) Section 104(d) of the Housing and Community Development Act of 1974 (HCDA) and the implementing regulations at 24 CFR Part 42
- c) 24 CFR 570.606 of the CDBG Regulations, which requires compliance with the regulations, listed above.

For further guidance, please see Section 10 Acquisition and Relocation of the Disaster Recovery CDBG Grantee Administrative Manual:

<https://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>.

B.3 Section 3 Compliance in the Provision of Training, Employment and Business Opportunities

To the greatest extent feasible, employment and other economic opportunities should be directed to (1) low- and very low-income persons and (2) business concerns that provide economic opportunities to low- and very low-income persons. Requirements are triggered when a recipient of CDBG-MIT assistance invests \$200,000 or more into projects/activities involving housing construction, rehabilitation or other public construction. If Section 3 of the HUD Act of 1968 is triggered for the applicant, then contractors/subcontractors whose contracts exceed \$100,000 must also comply. The applicant must report to OCD information on Section 3 new hires and contracts awarded to Section 3 business concerns.

Applicants must ensure they comply with

- a) Section 3 of the Housing and Urban Development Act of 1968, as amended
- b) 12 U.S.C. 1701u
- c) 24 CFR Part 135

For further guidance, please see Section 8 Civil Rights of the Disaster Recovery CDBG Grantee Administrative Manual, available online here: <https://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>.

B.4 Procurement

Applicants that are state agencies may follow state procurement law pursuant to 2 CFR Part 200.317 but must additionally comply with the requirements of 2 CFR Parts 200.321-322. All others must follow



federal procurement rules (or state when more stringent) when purchasing services, supplies, materials or equipment. The federal procurement rules establish standards and guidelines for the procurement of supplies, equipment, construction, engineering, architectural, consulting and other professional services for CDBG-MIT programs. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable federal and state laws and executive orders.

Applicants can refer to 2 CFR Part 200 for full details of requirements. Grantees are required to adopt written procurement procedures as required in 2 CFR 200.318-326. All procurement transactions funded in whole or in part with CDBG-MIT funds, regardless of dollar amount, must be conducted to provide “maximum open and free competition.” 2 CFR 200.318(i) requires that applicants maintain records sufficient to detail the significant history of a procurement. These records must include, but are not limited to, the following:

- 1) Rationale for the method of procurement;
- 2) Selection of contract type;
- 3) Contractor selection or rejection; and,
- 4) The basis for the contract price.

Two critical areas of compliance under 2 CFR Part 200 that all grantees should adhere to:

- 1) Per 2 CFR Part 200.323, the Grantee must make independent cost estimates before receiving bids or proposals.
- 2) The contract provisions for non-federal entity contracts listed in Appendix II to 2 CFR Part 200 must be incorporated into all CDBG-MIT funded contracts. These provisions are included in the Grantee Administrative Manual as Exhibit 6-2 and Exhibit 6-16.

Applicants shall maintain a contract administration system to monitor contractor’s performance against the terms, conditions and specifications of their contracts or purchase orders.

For additional information, refer to Section 6 – Procurement Methods and Contractual Requirements in the OCD-DRU Grantee Administrative Manual online here: <http://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>.

B.5 Environmental Review

All activities funded by CDBG-MIT are subject to the provisions of the [National Environmental Policy Act of 1969 \(NEPA\)](#), as well as to the HUD environmental review regulations at [24 CFR Part 58](#). Applicants cannot make any choice limiting actions prior the completion of the HUD environmental review process. **No contracts may be entered committing the applicant. This includes but is not limited contracting for property rights or acquisition or construction contracts. Work may not commence on a project before the environmental review process is completed. These requirements apply if even such contract or work is funded with non-federal dollars. These requirements are triggered once there is a reasonable expectation that a grantee or entity may receive funds, which is no later than the date of application to the program. Breach of this requirement results in the entire project’s being ineligible even for costs incurred after the environmental review.**

For additional information, refer to Section 9 – Environmental Review in the OCD-DRU Grantee Administrative Manual online here: <http://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>.



The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites and to develop procedures to ensure compliance with regulations pertaining to these factors. All CDBG-MIT funded projects and activities must have documentation that they follow NEPA and all other environmental requirements.

Laws and regulations containing environmental provisions that must be complied with include:

- Noise
- Historic Properties
- Coastal Zones
- Environmental Justice
- Floodplains
- Wetlands
- Manmade Hazards
- Water Quality
- Air Quality
- Endangered Species
- Farmland Protection

The timeline for an Environmental Assessment (**EA**) level (i.e., requiring a Phase I Report for new construction or reconstruction) environmental process is 90-120 days from the receipt of a comprehensive environmental review record (**ERR**). However, the amount of information collected and required in the environmental review process is also impacted by the type of work being completed. For example, a project that only consists of rehabilitation of an existing home may only require a site-specific checklist and could be completed much more quickly than a project that includes new construction and/or reconstruction. The stated condition of the property and recognized environmental conditions (**REC**) in the vicinity of the project also dictate follow-up requirements (i.e., 404 wetlands permits or Phase 2 reports) which further prolong the review process. The range of time required to completely review an ERR for a given property varies and is largely dependent upon how well the ERR submission is compiled. There is no official HUD timeline for all of the steps of the environmental review process.

After the environmental review process is completed, there are additional steps before release of funds:

- FONSI/NOI public notice period prior to submitting the RROF (15-18 days), and
- the HUD review/comment period prior to the authorization to use grant funds (**AUGF**) (15-18 days or more).

For additional information and more details, refer to Section 9 – Environmental Review in the OCD-DRU Grantee Administrative Manual online here: <http://www.doa.la.gov/Pages/ocd-dru/DRAdminManual.aspx>.

B.6 Duplication of Benefits

The Supplemental Appropriations Act authorizing CDBG funding or the Stafford Act itself may include restrictions on using those program funds to provide assistance when insurance providers or other federal or state agencies have already funded all or a portion of the activity. Supplemental



Appropriations Acts also include restrictions against certain types of matching requirements, share or contribution for any other federal program.

If receiving funds, an applicant (subrecipient or grantee) must have adequate procedures to prevent the duplication of benefits. This includes: (a) verifying all sources of assistance received, as applicable, prior to the award of CDBG-MIT funds; (b) determining remaining funding need(s) for CDBG-MIT assistance before committing funds or awarding assistance; and (c) requiring beneficiaries to enter into a signed agreement to repay any duplicative assistance if they later receive additional assistance for the same purpose for which the CDBG-MIT award was provided. For a state-administered project, OCD will implement procedures to prevent the duplication of benefits.

It is required to use the best, most recently available data from FEMA, the Small Business Administration (SBA), as applicable, insurers, and any other sources of information on local, state and federal funding to prevent the duplication of benefits. Policies and procedures related to DOB should take note of FRN published on June 20, 2019 entitled, “Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees” (2019 DOB Notice)(84 FR 28836). The policies and procedures must reflect the treatment of loans in a way that is consistent with the requirements of the Declined Loans Provision and the Disaster Recovery Reform Act.⁹ Additional reference should be made to the State of Louisiana Substantial Action Plan Amendment No.12 for the Utilization of Community Development Block Grant Funds in Response to the Great Floods of 2016 (submitted to HUD on August 14, 2019).

B.7 Flood Insurance

The Stafford Act also contains eligibility requirements for recipients who have received prior disaster funding based on whether they are in compliance with requirements associated with receipt of those funds. Where applicable, recipients must be in compliance with these restrictions or individual funding will be denied. Through this FRN, HUD instituted an Alternative Requirement to 42 U.S.C. 5305(a)(4) for CDBG-MIT funds, as follows: There is a prohibition to providing CDBG-MIT assistance for the rehabilitation/reconstruction of a house, if (a) the combined household income is greater than 120 percent AMI or the national median, (b) the property was located in a floodplain at the time of the disaster, and (c) the property owner did not maintain flood insurance on the damaged property, even when the property owner was not required to obtain and maintain such insurance.

Section 582 also imposes a responsibility on an applicant that receives CDBG-MIT. That responsibility is to inform property owners receiving assistance that triggers the flood insurance purchase requirement that they have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance in writing and to maintain such written notification in the documents evidencing the transfer of the property, and that the transferring owner may be liable if he or she fails to do so.

Public entities applying for CDBG-MIT funding must be in good standing with the National Flood Insurance Program (NFIP). Project submittals are advised to include consultation with local and regional floodplain administrators and managers.

⁹ P.L. 115-254, Division D, “DRRA “ section V.A.24. of FRN FR-6109-N-02 and the 2019 DOB Notice (Pages 24-25)



B.8 Fair Housing

Receipt of CDBG funding is accompanied by the obligations of grantees to affirmatively further fair housing (24 CFR 570.487(b)). This obligation arises even if the CDBG funded project is not a housing related project.

C. OTHER RESOURCES AND INFORMATION

Resources, reference documents and links to guidance documents and regulations related to this program and the LWI will be posted on the LWI website at www.watershed.la.gov.

V. ACTION PLAN PROGRAMS AND PROGRAM AREAS

A. STATE PROJECTS AND PROGRAMS

A. 1. State Infrastructure Program

The State Infrastructure Program is part of the larger State Projects and Programs (Program Area No. 2), as outlined in the Action Plan for CDBG-MIT funding.

A. 1.1 Program Description

Following the Great Floods of 2016, the state identified numerous infrastructure projects that are necessary for immediate implementation of a more comprehensive flood mitigation strategy. In these cases, the state – through the LWI – will award projects, as selected through a non-competitive process for immediate implementation.

A. 1.2 Funding Phases

The state will administer the State Infrastructure Program through multiple phases of allocations.

A. 1.3 National Objectives

National objectives for this program include:

- Low to Moderate Income Benefit (LMI)
- Urgent Need Mitigation (UNM)

A. 1.4 Eligible Activities

Regional Retention/Detention Projects and Natural Flood Management: The state will identify areas with the potential to detain and retain water capacity, as well as identify strategically located, critical sites that provide beneficial natural functions and are in need of restoration or preservation. These projects may include the creation or restoration of wetland functions, the improvement or enhancement of components of the states' water conveyance infrastructure, and/or the preservation of certain areas. In selecting regional retention/detention or natural flood management projects, the state will emphasize best practices in flood control and techniques with a documented history of effectiveness.



Critical Facilities and Infrastructure: The state will construct, retrofit or mitigate critical facilities to a minimum standard accounting for 0.2 percent AEP floods, thereby enabling continued functionality of infrastructure providing critical services under a range of scenarios. Projects funded under this program may present opportunities to reduce the potential for future flood damage through retrofits that conserve, restore or enhance their systems and/or that incorporate natural systems and proven flood mitigation techniques into developed areas to manage stormwater on-site. This program will utilize evidence-based techniques, watershed modeling and green infrastructure concepts to improve flood resilience at each site.

A. 1.5 Ineligible Activities

- Per the FRN, HUD prohibits the use of CDBG-MIT funds to enlarge a dam or levee beyond the original footprint of the structure that existed prior to the disaster event.
- CDBG-MIT funds made available in this program cannot be used to assist privately owned utilities.
- CDBG-MIT funds cannot be used for ongoing maintenance or deferred maintenance projects.
- CDBG-MIT funds cannot be used for programs and projects to provide emergency response services¹⁰. However, CDBG-MIT funds may be used for mitigation activities to enhance the resilience of facilities used to provide emergency response services, provided that such assistance is not used for buildings for the general conduct of government as defined at 24 CFR 570.3.
- CDBG-MIT funds cannot be used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use¹¹.
- CDBG-MIT funds cannot be used for reimbursement for mitigation activities undertaken prior to the date of the FRN.

A. 1.6 Specific Project Requirements

A. 1.6.1 Project Size

State projects and programs will have a minimum funding request of **\$250,000** and a maximum funding request of **\$50 million**.

A. 1.6.2 Stipulations for Levees and Dams

Special requirements exist for the use of CDBG-MIT funds for levees and dams as described below and specified in the FRN¹².

- a) Grantees that use CDBG-MIT funds for levees and dams are required to:
 - (1) Register and maintain entries regarding such structures with the U.S. Army Corps of Engineers National Levee Database or National Inventory of Dams;
 - (2) Ensure that the structure is admitted in the U.S. Army Corps of Engineers Public Law 84-99 Rehabilitation Program (Rehabilitation Assistance for Non-Federal Flood Control Projects);

¹⁰ Emergency Response Services are defined in Section V.C.5, page 115 of FR-6109-N-02

¹¹ Must be in accordance with the public use definition in Section V.D.7, page 117 of FR-6109-N-02.

¹² Section V.C.2, Page 113-114 of the FRN: FR-6109-N-02



- (3) Ensure the structure is accredited under the FEMA National Flood Insurance Program;
 - (4) Enter into the DRGR system the exact location of the structure and the area served and protected by the structure; and
 - (5) Maintain file documentation demonstrating that the grantee has conducted a risk assessment prior to funding the flood control structure and documentation that the investment includes risk reduction measures.
- b) Funds may be used on the construction or demolition of a dam, levee or other flood control structure provided that construction or demolition shall be demonstrated to be an eligible mitigation activity pursuant to the requirements of this notice.
 - c) Rehabilitation of dams, levees or flood control structures are also eligible, provided that the rehabilitation is demonstrated to be an eligible mitigation activity and for dams and levees, that the rehabilitation may not exceed the original footprint of the structure as provided herein.

A. 1.7 Eligible Applicants

State agencies and non-profit organizations are eligible to apply for funding through this program. Non-profit organizations or public entities other than a state agency (ex: a parish government, local jurisdiction, or other public entity) may act as the grantee and administer the projects or programs funded through this program. Per the guidelines in FRN, OCD will evaluate the capacity of potential grantees to serve as a subrecipient for CDBG-MIT funds, and to ensure procedures to detect and prevent fraud, waste and abuse¹³.

A. 1.8 Project Identification and Application Process

OCD will identify projects for selection and funding by requesting input from state agencies for projects that mitigate flood risk in the state and pose minimal risk of negative upstream or downstream impacts within multiple watersheds within the state. Prior to submitting an application for the program, applicants will fill out a questionnaire to enable OCD to conduct a preliminary eligibility review. This questionnaire can be found in Appendix B. applicants will then submit an application and any additional needed information to OCD generally detailing the proposed project scope, budget and implementation details.

Applicants will complete a full application form and submit the form electronically through an online system provided by OCD. OCD will not accept paper applications.

Included with the full application, applicants must submit all supporting documentation as requested including but not limited to H&H studies, geotechnical analysis, impact analysis and modeling to support the project's benefits and impacts, as well as any other documentation necessary to support the requirements of the FRN or the criteria for this program.

A.1.9 Project Selection

OCD will review applications in a non-competitive process to ensure that selected projects have the following qualities:

- Reduce flood risk in project benefit area or support analysis to optimize flood risk reduction

¹³ FR-6109-N-02, Section (6); Page 26.



of projects in design stage

- Feature an eligible activity and further a national objective
- Do not increase flood risk in surrounding areas
- Address project long-term operation and maintenance needs

In addition to these primary criteria, OCD will prioritize projects that have one or more of the following qualities¹⁴:

- Project is designated as an urgent and prioritized need within the agency's portfolio of infrastructure components in order to prevent loss of life or property.
- Project, if constructed, would protect an LMI area, confer benefits to low- to moderate-income individuals, or protect an area with vulnerable residents.
- Project would enhance the natural and beneficial functions of a natural floodplain by promoting marsh or wetland health.
- Project would improve habitat or vegetative conditions within or in proximity to a wildlife refuge.
- Project would benefit a HUD MID.
- Project benefits multiple jurisdictions or communities.

The state will select projects provided they are within the program funding thresholds. OCD will make final award determinations. There is no specified number of awards nor established geographic dispersion for these awards. The Notices of Awards will contain terms and conditions that must be satisfied for the project to proceed and be eligible for reimbursement of costs.

A.1.10 Project Implementation

The state, non-profit organizations, or a grantee that is a public entity may administer projects within this program, subject to OCD review and approval.

A. 2. State Housing: Nonstructural Mitigation

Reserved.

A. 3. State Economic Development and Resilience: Flood-Ready Jobs

Reserved.

¹⁴ Projects selected for this program do not need to have all of the qualities listed.



APPENDIX A

PROFESSIONAL DESIGN COSTS SUPPLEMENTAL INFORMATION

Professional design costs for basic services or additional services may be eligible for reimbursement up to the **established fee schedule by the State of Louisiana Office of Facility Planning and Control (see Figure 1 on next page)**. All design costs would be included under project costs and not included in the project delivery costs. Architectural/engineering fees, even those provided under either a fixed price contract or cost reimbursement contract, must be reasonable and justifiable. Sole justification that the fees are within the amount allowed by OCD is not adequate, and design contracts priced on the basis of a percentage of cost are prohibited.

The fee for basic services, as described hereinafter, shall be calculated as the product of the fee percentage, adjusted for inflation, and the amount available for construction (AFC), adjusted for inflation. The fee percentage shall be computed by the formula:

$$\text{FEE PERCENTAGE} = \frac{46.10}{\text{Log (AFC (1975 BCI/Current BCI))}}$$

The fee shall be computed by the following formula:

$$\text{FEE} = \text{FEE PERCENTAGE (AFC (1975 BCI/Current BCI) (Current CPI/1975 CPI))}$$

Where:

BCI = Building Cost Index as published by Engineering News Record

CPI = Consumer Price Index as published by U.S. Department of Labor, Bureau of Labor Statistics.

Since the annual average computed in December of the BCI and CPI are used, fee calculations are based upon the most current calendar year average of both indices. Should fee modifications occur during the course of the project, the BCI and CPI index factors used to calculate the original fee shall be used. If a project, through no fault of the Designer, is inactive for more than 24 months, the current BCI and CPI index factors shall be applied to the project once re-activated.



Figure 1: State of Louisiana Office of Facility Planning and Control Fee Schedule¹⁵

State of Louisiana Facility Planning & Control

BCI & CPI FOR 2020

BCI		CPI
1306	1975	53.8
6136	2019	255.7

SCHEDULE OF REPRESENTATIVE FEES FOR 2020

AFC	Fee as a Percentage of AFC	Fee
\$ 10,000.00	14.0100%	\$ 1,401.00
\$ 50,000.00	11.5800%	\$ 5,790.00
\$ 100,000.00	10.7750%	\$ 10,775.00
\$ 200,000.00	10.0740%	\$ 20,148.00
\$ 500,000.00	9.2768%	\$ 46,384.00
\$ 750,000.00	8.9628%	\$ 67,221.00
\$ 1,000,000.00	8.7526%	\$ 87,526.00
\$ 1,500,000.00	8.4726%	\$ 127,089.00
\$ 2,000,000.00	8.2846%	\$ 165,691.00
\$ 3,500,000.00	7.9417%	\$ 277,958.00
\$ 5,000,000.00	7.7376%	\$ 386,878.00
\$ 7,500,000.00	7.5179%	\$ 563,843.00
\$ 10,000,000.00	7.3695%	\$ 736,948.00
\$ 20,000,000.00	7.0348%	\$ 1,406,966.00
\$ 50,000,000.00	6.6364%	\$ 3,318,223.00

¹⁵ This information will be updated annually to reflect updates by State of Louisiana Office of Facility Planning and Control.



APPENDIX B

PRELIMINARY ELIGIBILITY QUESTIONNAIRE

CDBG Eligibility Questions

1. Is there another entity that would be the applicant or would the State agency bid and manage the project?
2. Describe the full area of impact (please include a map of this area if available) including an estimate of the potential number of households to benefit. (i.e. 1,000 or 50,000)
3. For elevations and buyouts in a specific parish, please include an estimate of the number of structures that would be eligible. (i.e. 1,000 or 50,000). If unknown, please describe how the estimate of cost for the project was determined.
4. Identify which, if any of the following most impacted parishes are impacted by this project: East Baton Rouge, Livingston, Ascension, Tangipahoa, Ouachita, Lafayette, Vermillion, Acadia, Washington or St. Tammany.
5. Expenses associated with repairing, operating or maintaining public facilities, improvements and services are ineligible for CDBG funding. Please provide a description of each project ensuring that the following is addressed:
 - a. Does this project mitigate future flood risk? If so, how?
 - b. How does this project result in measurable and verifiable reductions in the risk of loss of life and property from future disasters and yield community development benefits?
 - c. If the project includes work on an existing structure, please describe the repairs, upgrades, design changes, increases in capacity, etc. that this project will provide that is outside of routine maintenance and describe the benefits of doing so.
 - d. If applicable, identify potential resources for long-term operation and maintenance of the project.

LWI Questions

Please address whether the proposed project meets one of the following criteria:

- Y / N *Natural Hydrology Improvements:* Proposal provides information showing that the project, once built/implemented will alter quantity, frequency and duration of water flows in a manner that improves, enhances or restores floodplain, riverine and coastal ecosystem services and the human livelihood and well-being that depend on these services?
- Y / N *Consistency with Other Plans or Projects:* Project is consistent with local capital improvement plan or is aligned with other federal, state, or local mitigation projects?
- Y / N *Upstream and Downstream flood Effects:* Project reduces flood risk up and/or downstream of the project's primary benefitting area?
- Y / N *Critical Lifelines:* Project will enhanced protection of critical lifelines (e.g., hospitals, power, evacuation routes and critical roads, water, wastewater)?



Levee and Dam Requirements

- Y / N Is the structure registered and maintained with the U.S. Army Corps of Engineers National Levee Database or National Inventory of Dams?
- Y / N Is the structure admitted in the U.S. Army Corps of Engineers Public Law 84–99 Rehabilitation Program (Rehabilitation Assistance for Non- Federal Flood Control Projects)?
- Y / N Is the structure accredited under the FEMA National Flood Insurance Program?
- Y / N Has there been a risk assessment conducted prior to funding the flood control structure and documentation that the investment includes risk reduction measures. CDBG–MIT funds may be used on the construction or demolition of a dam, levee or other flood control structure provided that construction or demolition shall be demonstrated to be an eligible mitigation activity pursuant to the requirements of this notice. Rehabilitation of dams, levees or flood control structures are also eligible, provided that the rehabilitation is demonstrated to be an eligible mitigation activity and for dams and levees, that the rehabilitation may not exceed the original footprint of the structure as provided in FR-6109-N-02.